

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re) Chapter 11
)
WORLDWIDE DIRECT, INC., <u>et al.</u> ,) Case Nos. 99-108 to -127 (MFW)
)
Debtors.)
) Jointly Administered
)

APPENDIX OF DEPOSITION TESTIMONY

PLEASE TAKE NOTICE Hennigan, Bennett & Dorman hereby lodges deposition excerpts in support of its Reply to the Liquidating Trust's Objection to the Final Fee Application.

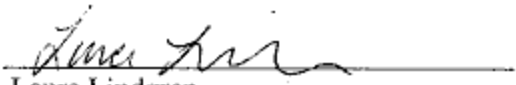
DECLARATION OF AUTHENTICITY OF DEPOSITION TRANSCRIPTS

I, LAURA LINDGREN, declare as follows:

1. I am a member of Hennigan, Bennett & Dorman, counsel for the Debtors in the above-captioned matter. I was admitted pro hac vice on behalf of the Debtors in the case entitled In Re Worldwide Direct, Inc., et al., Case Nos. 99-00108 (MFW) through 99-00127 (MFW) in the United States Bankruptcy Court for the District of Delaware. The matters stated herein are true of my own personal knowledge.
2. I attended the following depositions and attached hereto are true and correct copies of excerpts from the following deposition transcripts:
 - a. Skyler Altland, 2/13/02
 - b. James Johnston, 2/20/02
 - c. John Marquess, 2/12/02

d. David Pauker, 2/26/02

I declare under penalty of perjury that the foregoing is true and correct. Executed on this
15th day of March at Los Angeles, California.



Laura Lindgren
HENNIGAN, BENNETT & DORMAN
601 South Figueroa Street, Suite 3300
Los Angeles, California 90017
Telephone: (213) 694-1200
Fax: (213) 694-1234

SKYLER ALTLAND

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

Case No. 99-108 (MPW) through 99-127

Jointly Administered

Chapter 11

In Re

WORLDWIDE DIRECT, INC., et al.

Debtors

COPY

DEPOSITION OF SKYLER ALTLAND

Newark, New Jersey

Wednesday, February 13, 2002

Reported by

Linda M. Schaaf

Certified Shorthand Reporter

JOB No. 6911

www.attysweb.com

46 Corporate Park, Suite 100 Irvine, CA 92606
445 South Figueroa St., Suite 2850
Los Angeles, CA 90071

phone 877.955.3855
fax 877.290.0777



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1 Altland

2 used; is that right?

3 A. That's correct.

4 Q. With respect to the Hennigan
5 report, are there potential codes that were not
6 utilized in connection with the report?

7 A. Oh, yes.

8 Q. Now, is it correct that you would
9 run queries with respect to the data in order to
10 determine which entries would be fit into which
11 particular code?

12 A. In some cases.

13 Q. And in other cases where you didn't
14 run queries, how would you determine which
15 entries would go in?

16 A. That would be a review, a
17 line-by-line review, actual reading of the
18 entries.

19 Q. In connection with the Hennigan
20 report, did you then generate a draft of entries
21 into various codes and supply those to
22 Mr. Marquess?

23 MR. LANGENDORFER: Excuse me, could
24 I have that read back.

25 MS. LINDGREN: Do you want me to

1 Altland

2 rephrase the question?

3 MR. LANGENDORFER: If you want or the
4 reporter can read it back. I didn't hear it.

5 Q. In connection with the Hennigan report
6 did you generate a draft that put different
7 entries into different categories and supply
8 that to Mr. Marquess?

9 A. Yes. It would be the same type of
10 charts that you would see in the report that are
11 attached to the report.

12 Q. Did Mr. Marquess then make changes
13 to some of those draft charts?

14 A. Yes.

15 Q. Do you know if he made -- well,
16 perhaps we should go into each one. That might
17 be better.

18 Was there anything else that you
19 did in connection with the Hennigan report?

20 A. Other than work with -- I think
21 there may have been some specific charting
22 contained within the report such as rate
23 increases, things like that that I probably
24 would have generated.

25 Q. I'd like to go through -- I believe

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Altland

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you have in front of you a copy of the Legal

3

Cost Control report.

4

A. Yes.

5

Q. I'd like to go through some of the

6

exhibits and ask you some questions about that.

7

A. Okay.

8

Q. Before I do that, when you would

9

run queries in connection with generating

10

various charts, did you keep a record of the

11

queries that you ran?

12

A. No, because those are different

13

depending on what pattern we see in the bills.

14

Q. If we could take a look at the

15

first chart, which is Exhibit 2, to the report.

16

That one is entitled blocked/grouped

17

description.

18

A. I have that.

19

Q. Did you do the initial version of

20

this chart?

21

A. Yes.

22

Q. Do you recall what queries you ran

23

to generate the entries in this chart?

24

A. Just to clarify, the charts aren't

25

necessarily generated by queries. This may have

12

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had some queries run to bring up certain items
3 for review, but queries aren't necessarily
4 relied on to generate the report.

5

Q. Yesterday Mr. Marquess said he
6 believed in connection with this that there were
7 certain possible queries that were used.

8

A. Possible queries, yes. There would
9 be possible queries that I would have used to
10 generate that, but that's not necessarily the
11 only criteria.

12

Q. I understand that.

13

Do you recall if one of the queries
14 that was utilized was whether or not the entry
15 had a semi colon in it?

16

A. That's very likely. That's very
17 likely that would be used on a blocked and
18 grouped, but that wouldn't be the only criteria.

19

Q. I believe Mr. Marquess said another
20 query that would have been run was any
21 description that was in excess of a certain
22 number of words. Do you know if that was a
23 query that was used in connection with this
24 chart?

25

A. I don't believe so.

13

Altland

Q. Can you recall any other queries that were utilized in connection with generating this chart, at least an initial version of it?

A. To my recollection probably only a semi colon search.

Q. Can you remember any other criteria that were used in selecting entries for this particular chart?

A. Well, whether more than one activity was taking place in the entry, which that would require an actual reading of the entry. That entry may not have a semi colon just because of a typographical error, but still may contain more than one activity.

Q. How did you make that determination? Did you use any computer assistance in making that determination?

A. No, that would require an actual reading of the entry.

Q. So you read through every single entry on every single bill you personally?

A. Yes, I believe so.

Q. From reading through every single entry did you then add additional entries to the

1 Altland

2 A. No.

3 Q. You just supersede them on the

4 computer?

5 A. Yes, that's correct. I try not to

6 print out bunches of charts for editing

7 purposes.

8 Q. I'd like to go to Exhibit 3 in the

9 report. That particular chart is entitled

10 inadequate description.

11 A. Uh-huh.

12 Q. Do you recall what queries, if any,

13 that you utilized in creating this chart?

14 A. No, not specifically.

15 Q. Do you recall if you ran a query

16 utilizing the word prepare in order to assist in

17 generating Exhibit 3?

18 A. From looking at it it would appear

19 that I probably did.

20 Q. From looking at it can you

21 determine any other queries you may have run in

22 order to generate it?

23 A. It looks just like variations on

24 prepare. I see words like prep, that sort of

25 thing.

1 Altland

2 Q. Right.

3 Does anything else come to mind
4 from looking at it?

5 A. No. Maybe in light of the other
6 entries, the other entries in total in the
7 billing there may have been some other queries,
8 but nothing is coming to mind from just looking
9 at the chart here other than prepare, variations
10 on that.

11 Q. Other than running queries do you
12 recall any other steps you took to identify
13 entries to place into this chart?

14 A. Actual reading of entries, we would
15 read through the billing, entries, other entries
16 that would come up.

17 Q. Did you do that personally?

18 A. Yes.

19 Q. Do you recall if Mr. Marquess
20 eliminated any items from your draft of Exhibit
21 3?

22 A. No, I don't recall that.

23 Q. I'd like to now turn to Exhibit 4,
24 which is entitled inadequate descriptions -
25 meeting or hearing.

1 Altland

2 A. All right.

3 Q. Do you recall if one of the queries
4 that you ran to generate the entries on this
5 chart were appear or a variation of the word
6 appear?

7 A. Most likely.

8 Q. Do you recall any other queries?
9 For example, I see the word attend. Do you know
10 if you ran a query utilizing the word attend in
11 order to generate some of these entries?

12 A. Yes, attend and appear are general
13 queries we would normally run.

14 Q. Do you recall any other queries
15 that you ran to assist in generating Exhibit 4?

16 A. Not that I specifically recall, no.

17 Q. Do you recall if Mr. Marquess
18 removed any entries from the Exhibit 4 chart
19 that you created?

20 A. No, I do not.

21 Q. Physically when the report was
22 generated in its entirety, was that done by you
23 or was that done by the Legal Cost Control
24 office in New Jersey?

25 A. That would have been done by Legal

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Altland

appearance, for example, or for a deposition?

A. The entries don't reflect that.

Q. In connection with your work on this project, did you look at any invoices underlying any of the billings?

A. By invoices what do you mean? Do you mean --

Q. Invoices from the vendor or invoices, for example, reflecting the travel or the transportation.

A. No, I don't believe those were available.

Q. Did you look at any of the work product of the firm?

A. No. Other than the fee applications, no.

Q. So you didn't look at any of the underlying work?

A. No.

Q. Did you look at any of the court pleadings?

A. Other than fee applications, I don't believe so.

Q. Did you interview anyone about the

1 Altland

2 work that was performed?

3 A. You mean at your law firm?

4 Q. At the law firm or at the debtor or
5 anywhere else?

6 A. No.

7 Q. Now, in reports that you've worked
8 on in the past for auditing legal bills have you
9 ever looked at the underlying invoices?

10 A. You mean the firm's billing or
11 prebilling? Is that what you mean?

12 Q. No. For example, for costs have
13 you ever looked at invoices that a firm has paid
14 other than fee bills?

15 A. Yes.

16 Q. Have you ever looked at any of the
17 work product generated by the firm?

18 A. Yes.

19 Q. Have you ever interviewed attorneys
20 who work at the firm to question them about the
21 work that's reflected in the billings?

22 A. Yes.

23 Q. Have you ever interviewed the
24 client to question them about what work was
25 being generated?

1 Altland

2 A. Yes.

3 Q. You took those steps to determine
4 whether or not the fee applications were
5 appropriate?

6 A. Yes, in an audit situation, yes.

7 Q. Are there any other steps that you
8 can think of that you've undertaken with respect
9 to other cases to determine whether or not the
10 fees were proper other than looking at invoices,
11 work product interviews, anything you can think
12 of that you've done in the past?

13 A. The only thing I would add to that
14 list would be guidelines, whether client or
15 court imposed guidelines on billings.

16 Q. Going back now to this Hennigan
17 report, did you look at the retainer agreement
18 with the client?

19 A. No.

20 Q. Did you ever ask talk to anyone at
21 Goldin about this assignment?

22 A. I did have a conversation with
23 someone. I don't recall exactly who, but it was
24 only in regards to when a report would be
25 available.

JAMES JOHNSTON

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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)
WORLDWIDE DIRECT, INC., et al.,) Chapter 11
Debtors.) Case No. 99-108(MFW)

DEPOSITION OF:

JAMES JOHNSTON

WEDNESDAY, FEBRUARY 20, 2002

9:14 A.M.

JILLO
& ASSOCIATES
CERTIFIED COURT REPORTERS
& DOCUMENT DEPOSITORY

**JAMES JOHNSTON, 02.20.02
IN RE: WORLDWIDE DIRECT**

1 Q Who?

2 A Shawna Ballard.

3 Q Could we have all the documents produced that
4 relate to payments to experts in the Fletcher litigation
5 and all documents that support the payment of
6 professional fees for 147,000.

7 MS. LINDGREN: I believe those were included in the
8 documents that have been produced.

9 MR. DE FILIPPO: Well, do you have a schedule of
10 Bates numbers that --

11 MS. LINDGREN: No. We didn't produce them with
12 Bates numbers. We gave you all of our files, and you
13 copied selected portions.

14 MR. DE FILIPPO: Do we have them?

15 MS. KARDOS: I don't know if we have them with us.

16 BY MR. DE FILIPPO:

17 Q Do you remember the names of the experts who
18 did financial analysis in Fletcher?

19 A To clarify, I don't know if it was more than
20 one expert.

21 Q Do you remember the name of any expert that
22 did financial analysis?

23 A No.

24 Q Did the firm have a contract with any of the
25 experts it used in that case?

135

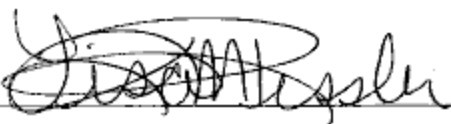
1 CERTIFICATE
2 OF
3 CERTIFIED SHORTHAND REPORTER
4
5

6 The undersigned Certified Shorthand Reporter
7 and deposition Officer of the State of California
8 does hereby certify:

9 That the foregoing Deposition was taken before
10 me at the time and place therein set forth, at which time
11 the Witness was duly sworn by me:

12 That the testimony of the Witness and all
13 objections made at the time of the Deposition were
14 recorded Stenographically by me and was thereafter
15 transcribed, said transcript being a true and correct
16 copy of the proceedings thereof.

17 In witness whereof, I have subscribed my name
18 this date: FEB 25 2002.

19
20 
21

22
23 Certificate No. 11078
24
25

JOHN MARQUESS

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

Case No. 99-108 (MEW) through 99-127

Jointly Administered

Chapter 11

In Re

WORLDWIDE DIRECT, INC. et al

Debtors

COPY

DEPOSITION OF JOHN J. MARQUESS

Newark, New Jersey

Tuesday, February 12, 2002

Reported by

Jeanne Marie Marucci

Certified Shorthand Reporter

JOB No. 6909

www.attysweb.com

46 Corporate Park, Suite 100 445 South Figueroa St., Suite 2950
Irvine, CA 92606 Los Angeles, CA 90071

phone: 877.955.3855
fax: 877.230.0777



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1 2000.

2 Q. After the merger, did you continue
3 practicing when you did practice in the areas
4 that you've just described?

5 A. I did personally. The firm's
6 practice was a little broader.

7 Q. Are you associated with any law
8 firm today?

9 A. I -- myself. My own firm.

10 Q. What's the location of --

11 A. Haddonfield, New Jersey.

12 Q. Do you have any experience in
13 bankruptcy law?

14 A. No. You mean practicing experience
15 I assume.

16 Q. Correct.

17 A. No.

18 Q. In your private practice, did you
19 have occasion to appear in court on behalf of
20 clients?

21 A. Yes.

22 Q. Did you charge your clients for the
23 time that you appeared in court on their behalf?

24 A. Yes, I did.

25 Q. When you went to court to argue

1 motions, did you prepare to argue those motions?

2 A. Yes.

3 Q. And did you charge your clients for
4 that time?

5 A. Yes.

6 Q. Now, at some point, did you form a
7 company called Legal Cost Control?

8 A. I did not form the company.
9 Someone else formed it.

10 Q. At some point, did you become
11 associated with Legal Cost Control?

12 A. Yes.

13 Q. What year was that?

14 A. I believe that would have been
15 October 1st of 1998.

16 Q. So prior to October 1, 1998, your
17 full time was devoted to the practice of law as
18 far as your work areas?

19 A. No.

20 Q. What else did you do during that
21 time you were practicing law prior to '98?

22 A. Okay. From October 1st of 1988
23 through September 30, 1996, I was with Legalgard
24 Incorporated, L-e-g-a-l-g-a-r-d, Incorporated.

25 Q. And between Legalgard, Inc. and the

10

1 A. He -- he prepared the draft of the
2 charts, the exhibits that were attached.

3 Q. Is it fair to say that you were the
4 one in charge of the report?

5 A. Yes.

6 Q. And you oversaw all the work on the
7 report?

8 A. Yes.

9 Q. What's Mr. Altland's background?

10 A. He's been a fee auditor for I guess
11 12 -- 12 or so -- 12 or 13 years at this point.
12 Prior to that time, he was an auditor in other
13 areas including energy and utilities and things
14 like that.

15 Q. So his background is auditing --

16 A. Yes.

17 Q. -- public auditing?

18 A. Yes.

19 Q. In addition, did Mr. Patrick Woods
20 work on the report?

21 A. He didn't work on the actual
22 report.

23 Q. What did he do?

24 A. His job was to ensure that the data
25 that went in and came out was accurate and

1 given specifics or not.

2 Q. Did she tell you whether Goldin
3 Associates had already engaged in any
4 negotiations with respect to any of the fee
5 applications?

6 A. No, she didn't.

7 Q. And prior to beginning your
8 assignment, were you given any background
9 information about the SmartTalk bankruptcy
10 proceeding?

11 A. No.

12 MS. LINDGREN: I'd like to have
13 marked as Exhibit 1 a copy of a document.
14 It's a brochure entitled "Legal Cost Control,
15 Legal Cost Solutions."

16 (Exhibit 1, Brochure entitled "Legal
17 Cost Control, Legal Cost Solutions," Marked
18 for Identification, as of This Date.)

19 Q. Is this a Legal Cost Control brochure
20 describing services performed by the company?

21 A. It appears to be.

22 Q. And did you provide this to
23 Goldin & Associates in connection with
24 discussions about whether they were going to
25 retain your firm?

1 A. Probably. I believe we would have.

2 Q. Can you take a look at the fifth
3 page of the brochure which is entitled "Legal
4 firm auditing" or excuse me, it's entitled "Law
5 Firm Auditing."

6 A. Okay.

7 Q. Can you take a look at the second
8 and third paragraphs of that page. The first
9 one begins "Legal Cost Control provides."

10 Do you see that?

11 A. Yes.

12 Q. Is this the methodology utilized by
13 Legal Cost Control to audit legal fees, what's
14 described on this page?

15 A. If we're auditing -- if it's a law
16 firm audit where we're going to the law firm to
17 look at work product, to interview the law firm
18 and to interview the firm and to check
19 disbursements, this would be the process that we
20 would use.

21 MS. LINDGREN: I'd like to next
22 have marked as Exhibit 2 a copy of a page
23 from the Legal Cost Control website.

24 (Exhibit 2, copy of a page from the
25 Legal Cost Control website, Marked for

1 A. No. I don't agree with that at
2 all.

3 Q. What authoritative board has
4 promulgated or adopted these Generally Accepted
5 Legal Auditing Principles?

6 A. Any case law that exists in the
7 area of fees, legal fees or professional fees
8 are a part of GALAP.

9 Q. Is this thing that you call GALAP
10 published anywhere?

11 A. No. Correction. We -- is GALAP
12 published anywhere or are the standards
13 published anywhere? What's your question?

14 Q. Is what you call here Generally
15 Accepted Legal Auditing Principles, are those
16 published anywhere?

17 A. The principles that constitute
18 GALAP are published, yes.

19 Q. And where are they published?

20 A. If you look at Professor William
21 Ross' law review article at the Rutgers law
22 review back in I believe 1991 and also his book.

23 Q. Now, when this refers to something
24 that's been copyrighted, apparently by Legal
25 Cost Control, is there a book or a publication

1 that sets them out in a way that a third party
2 could look at these principles?

3 A. Is there a published book? That's
4 what you're asking me, correct?

5 Q. Yes.

6 A. No.

7 Q. Do you have anything printed up at
8 Legal Cost Control that sets out these
9 principles?

10 A. I'm not sure how to answer that.
11 There's nothing printed in a book,
12 in booklet form.

13 Q. Is there anything printed at all
14 where I could look at it and say here's
15 principle No. 1, for example, principle No. 2?

16 A. No. They're not set out that way.
17 No.

18 Q. Is there an internal publication at
19 Legal Cost Control that sets out these Generally
20 Accepted Legal Auditing Principles?

21 THE WITNESS: Read back the
22 question.

23 (Requested portion of record read.)

24 A. When you say "publication," I would
25 have to say no. You're talking about a booklet

1 again, I think.

2 Q. Or an internal guidance or
3 something written that sets out these
4 principles.

5 A. Yes.

6 Q. What is that?

7 A. It would be the materials that we
8 would use for training and education.

9 Q. What kind of materials are those?

10 A. They would be printed materials.

11 Q. Have those been produced?

12 A. No.

13 Q. Are you willing to produce those?

14 A. No.

15 Q. On what basis?

16 A. They're proprietary.

17 Q. So if someone were being audited by
18 Legal Cost Control, they would not be able to
19 look at something to determine what principles
20 were being utilized for the audit, then; is that
21 right?

22 A. If they looked at the report that
23 was generated, they would see whether the audit
24 report was based upon strictly GALAP, upon
25 client guidelines, upon local rules of court.

1 Q. Are you aware of these GALAP
2 principles being subject to any peer review?

3 A. Who do you mean as a peer review?

4 Q. For example, anyone in the
5 accounting or legal profession, had they looked
6 at these GALAP standards copyrighted by Legal
7 Cost Control, commented on them?

8 A. In the sense of somebody reviewing
9 them on behalf of Legal Cost Control? Is that
10 what you mean?

11 Q. No. Someone reviewing them just
12 generally for -- similar to the --

13 A. Okay. Any firm or professional
14 who's ever been subject to a fee review or a fee
15 audit would have the report. Any issues about
16 their fees would be stated in the report and the
17 basis for those issues, and those firms have had
18 the right to comment, object, clarify, whatever
19 they wanted.

20 Q. Let's talk about an authorized
21 party, for example, an accounting standards
22 board.

23 Has any type of accounting
24 standards board ever reviewed these GALAP
25 principles and commented on them?

1 A. I don't know if they've reviewed
2 them. If they've commented, they haven't
3 commented to me.

4 Q. And are you aware of any --

5 A. You said an accounting firm?

6 Q. Any accounting board. Any type of
7 accounting board.

8 A. No.

9 Q. Has any accounting board reviewed
10 them and commented?

11 A. Again, I don't know that they
12 reviewed them. If there's been comments, it's
13 never come to my attention.

14 Q. Do you know if any independent body
15 representing any legal authority has ever
16 reviewed these GALAP principles and commented on
17 them?

18 A. I have heard over the years that
19 the ABA has reviewed auditing guidelines and
20 standards. No one's ever commented to me about
21 that.

22 Q. Has the ABA ever reviewed what you
23 refer to here as GALAP?

24 A. Not that I know of, other than in
25 the context of reports, audit reports that were

1 No. 32 from the United States Bankruptcy Court
2 for the District of Delaware.

3 A. Standing order 32, that's correct.

4 Q. So in addition to the five
5 applications, the standing order and the sixth
6 fee application, were there any other documents
7 reviewed by Legal Cost Control in connection
8 with the preparation of your report?

9 A. I don't believe so.

10 Q. In connection with --

11 A. Go ahead.

12 Q. In connection with the preparation
13 of your report, did you interview anyone?

14 A. You mean anyone outside of Legal
15 Cost Control or anyone --

16 Q. Yes.

17 A. No.

18 Q. So, for example --

19 A. Including Goldin. We did not
20 interview anyone at Goldin, no.

21 Q. So is it correct, then, that Goldin
22 did not provide you with any background
23 information?

24 A. None.

25 Q. And then it would also be correct

1 that you didn't interview anyone at the debtor
2 or the creditor's committee?

3 A. That's true.

4 Q. Did you discuss any of the issues
5 raised in the SmartTalk bankruptcy proceeding
6 with anyone outside of Legal Cost Control?

7 A. No.

8 Q. Did you review any of the court
9 files or pleadings in the SmartTalk proceeding
10 in connection with the preparation of your
11 report?

12 A. You mean other than the fee
13 applications and supporting materials?

14 Q. Correct.

15 A. No.

16 Q. Do you know what the significant
17 legal issues were raised by the bankruptcy?

18 A. No.

19 Q. Do you know if there are any novel
20 issues of law raised in the proceeding?

21 A. No.

22 Q. Do you know what adversary
23 proceedings were conducted in connection with
24 the SmartTalk bankruptcy?

25 A. No.

1 Q. Do you know if any summary judgment
2 motions were filed in connection with any of the
3 adversary proceedings?

4 A. No.

5 Q. Would you expect that in connection
6 with issuing rulings, that the bankruptcy court
7 familiarized itself with the factual and legal
8 issues raised in those proceedings?

9 THE WITNESS: Can you read back
10 that question?

11 (Requested portion of record read.)

12 A. I expect the bankruptcy court. That's
13 your question.

14 Q. Yes.

15 A. Yes.

16 Q. So would you agree that the
17 bankruptcy court was more familiar with the
18 factual and legal issues raised in the SmartTalk
19 proceeding than the people at Legal Cost
20 Control?

21 A. I would hope that the court would
22 be more familiar.

23 Q. Did you review any transcripts from
24 any proceedings in front of the SmartTalk
25 bankruptcy court?

1 A. No.

2 Q. Do you know how many proofs of
3 claim were filed in the SmartTalk bankruptcy
4 proceeding?

5 A. No.

6 Q. Do you know the dollar amount of
7 the precept claim filed in the bankruptcy
8 proceeding?

9 A. No.

10 Q. Did Legal Cost Control create any
11 work papers in connection with the report?

12 A. Other than what's contained in the
13 four corners of a report and the attachments,
14 no.

15 Q. Was one of the steps taken by Legal
16 Cost Control after it received the assignment,
17 was to input each of the individual time entries
18 into a computer?

19 A. Yes.

20 Q. Was anything else input into the
21 computer besides the individual time entries?

22 A. Meaning what? I'm not sure --

23 Q. Any other information from --

24 A. From the fee apps you mean?

25 Q. Yes.

1 A. Individual timekeepers at Hennigan?

2 Q. No. People at Legal Cost Control.

3 For example, yourself or Mr. Altland.

4 A. No, no.

5 Q. No one keeps time records?

6 A. No.

7 Q. So would it be possible for you to
8 estimate, for example, how much of your time was
9 spent on the report for Hennigan, Mercer &
10 Bennett?

11 A. I can tell you that the -- I would
12 estimate that the time expended by LCC personnel
13 was in the hundreds of hours.

14 Q. And do you know approximately how
15 much of your individual time was included in
16 that?

17 A. Approximately 300 hours. Could be
18 500 hours. I'm estimating.

19 Q. Do you know or can you estimate how
20 much of Mr. Altland's time was spent on the
21 report?

22 A. No, but I would -- I would estimate
23 it would be at least the same amount of time,
24 more or less.

25 Q. Was most of your communication with

1 Q. So the computer selects entries,
2 and then you review them after that selection?

3 A. And also review to ensure that the
4 computer didn't miss any entries. Again,
5 computer assisted.

6 Q. Was the query to the computer with
7 respect to Exhibit 2 a query as to any entries
8 with a semicolon?

9 A. Could have been one of the queries.

10 Q. Can you recall any other query with
11 respect to Exhibit 2?

12 A. The query would be any entry that's
13 more than six words, any entry that's more than
14 eight, any entry that's more than fourteen,
15 anything that gives more than two sentences. I
16 mean, there are various levels of
17 sophistication, again, without getting into
18 proprietary practices.

19 Q. Which queries were actually run in
20 this case? Was it all of those?

21 A. You would have to ask Skyler that
22 question, but I believe all of those would have
23 been run because that's the typical practice, to
24 do that, in addition to actually reviewing them,
25 myself and also Skyler reviewing them himself to

1 of the report that corresponds to Exhibit 4, and
2 the title is "Inadequate Description - Meeting
3 or Hearing."

4 A. Okay.

5 Q. Was one of the queries run to come
6 up with the questionable entries in Exhibit 4
7 whether an entry had the word appear in it?

8 A. It could have been appear. It
9 could have been appear and attend, appear or
10 attend. Again, Skyler would know specifically
11 which queries he crafted for this.

12 Q. Do you intend to opine that any
13 time an attorney charged time for appearing at
14 court on behalf of the debtor, that that
15 attorney did not actually appear in court?

16 A. Sorry. What was that question?

17 Q. As far as you're aware, any time an
18 attorney wrote down a time description that they
19 appeared in court, do you have any reason to
20 believe that that attorney did not actually
21 appear in court on behalf of the debtor?

22 A. No.

23 Q. Do you believe that when an
24 attorney represents a client at a court hearing,
25 that it is appropriate for the attorney to bill

1 charged at cost. I don't have any reason to
2 think that they weren't, but I would want to see
3 some of the receipts.

4 Q. And as you sit here today, do you
5 intend to opine that any of this copying was not
6 necessary in the SmartTalk action?

7 A. Because I don't know what it is, I
8 don't know whether it was necessary or not.

9 Q. So you don't know one way or the
10 other.

11 A. That's correct.

12 Q. Do you know how many documents were
13 produced in this action?

14 A. A lot. I don't know the exact
15 number.

16 Q. Do you know how many documents were
17 provided by SmartTalk to other parties to
18 litigation or to the creditor's committee?

19 A. No.

20 Q. And do you believe that insofar as
21 SmartTalk was required to provide those
22 documents or to obtain copies of documents, that
23 it is appropriate to charge for that copying?

24 A. Yes.

25 Q. While we're on the photocopy issue,

1 Q. What's the basis for your asserting
2 that they should be reduced from the firm's
3 compensation?

4 A. What's the rest of the sentence?

5 Q. I'll read it to you.

6 A. Okay.

7 Q. "LCC recommends that the amount
8 above be reduced from the firm's compensation
9 absent adequate explanation or correction by the
10 firm."

11 A. Okay. A, who are they; B, what
12 they were doing; C, what are the qualifications;
13 D, why did they not track their time on an
14 hourly basis, and therefore, E, what is the
15 basis of the charge.

16 Q. So you believe that if the firm
17 hired, for example, a firm or a company to
18 provide these temporary personnel, that each of
19 the individuals should have kept a time record
20 that was submitted to the firm and that they
21 should be identified?

22 A. Well, perhaps, but not necessarily.
23 Was it a flat-fee contract? Is it a per diem?
24 Maybe it's all reasonable. It's not stated.

25 Q. And you haven't looked at the

1 underlying invoices; is that correct?

2 A. No.

3 Q. I'd like next to go to your entry
4 that is entitled "Unspecified Computer-Assisted
5 Legal Research," and it corresponds to Exhibit
6 24 to your report.

7 Have you listed in Exhibit 24 all
8 computerized legal research?

9 A. I believe so.

10 Q. And do you agree that the court
11 does allow reimbursement for computerized legal
12 research?

13 A. So long as the research complies
14 with the court rule, stating Order 32, the court
15 could allow that.

16 Q. And what under 32 do you believe
17 the court would need to know?

18 A. If you look at Exhibit 24, the
19 computer research is the monthly charge. It
20 does not correlate back to the activity
21 description.

22 Q. Did your firm do any analysis to
23 determine what research was conducted by the
24 attorneys in any particular month that would
25 correspond to the computerized legal research?

1 A. Yes. You would try to go back and
2 forth from the fee app to the bill entry to the
3 actual charges that were actually on here, and
4 since there are no receipts available to review,
5 it's tough to correlate because, for example,
6 the April 30, 1999 entry for \$21,000 could have
7 related to research that was done that month,
8 the month before, two, three months before that
9 depending on how they received the billing from
10 Lexus or Westlaw or whomever it might be.
11 Again, it's a multiple-layer question. A, is it
12 submitted without a mark -- with a mark-up or
13 without a markup; B, how do you correlate the
14 research to the time in the billing which is
15 what the local rule says to do.

16 Q. And it's correct that you haven't
17 reviewed any of the actual billings from Lexus;
18 is that right?

19 A. I don't recall seeing them, no.

20 Q. Now, the second paragraph of your
21 narrative says, "It is LCC's position that
22 computerized legal research expense is not a
23 reimbursable disbursement."

24 Do you see that?

25 A. That's right.

1 A. Right.

2 Q. The next entry in your report is
3 entitled "Out-of-Town Travel Expense." That
4 corresponds to Exhibit 26.

5 A. Yes.

6 Q. How did you select these particular
7 entries from the bills to be listed here?

8 A. After -- I'm sure after reviewing
9 the fee applications and the billings and seeing
10 this decided to code these up and inquire about
11 them since we don't know what they are.

12 Q. Did you review any invoices related
13 to these expenses?

14 A. You mean the actual travel
15 receipts?

16 Q. Yes.

17 A. No.

18 Q. Did you review any documents that
19 reflected, for example, that the travel was
20 incurred to appear in court in Delaware or
21 incurred to go to a deposition or such
22 information?

23 A. As we indicate in the report, the
24 primary difficulty was identifying the type of
25 charge, whether it was a hotel, a car rental, a

1 C E R T I F I C A T E

2

3

4 I, JEANNE MARIE MARUCCI, a
5 Certified Shorthand Reporter and Notary Public
6 within and for the States of New Jersey and New
7 York, do hereby certify:

8 That JOHN J. MARQUESS, the witness
9 whose deposition is hereinbefore set forth, was
10 duly sworn by me and that such deposition is a
11 true record of the testimony given by the
12 witness.

13 I further certify that I am not
14 related to any of the parties to this action by
15 blood or marriage, and that I am in no way
16 interested in the outcome of this matter.

17

18

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24

25

Jeanne Marie Marucci
JEANNE MARIE MARUCCI, CSR

DAVID PAUKER

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In Re

WORLDWIDE DIRECT, INC., et al.

Debtors.

COPY

Tuesday, February 26, 2002
9:45 a.m. - 12:20 p.m.

DEPOSITION of DAVID PAUKER, held at
the offices of Gibbons, Del Deo, Dolan,
Griffinger & Vecchione, 125 West 55th
Street, New York, New York, before Francine
Sky, a Notary Public of the State of New
York.

JOB NO. 7091A

www.attysweb.com

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1 settlement that hasn't been obtained.

2 Q. Is that Howrey & Simon?

3 A. Yes.

4 Q. Was a similar letter or was the same
5 memorandum sent to Howrey & Simon?

6 A. I don't recall.

7 Q. Can you take a look at the second
8 page of the memorandum, the first full
9 paragraph.

10 A. Yes.

11 Q. It says, if you look down towards the
12 middle: "The offer of a voluntary fee reduction
13 is based on an initial review of the
14 professional fee applications and is not based
15 on a thorough and detailed examination of each."
16 Was that a correct statement?

17 A. Where?

18 MR. DeFILIPPO: Second page.

19 Q. First full paragraph on the second
20 page. It's the sentence beginning "The offer of
21 a voluntary fee reduction." Do you see that?

22 A. Yes.

23 Q. Is that a correct statement?

24 A. Yes. We had not conducted a thorough
25 detailed examination of the applications at that

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24

1 time.

2 Q. At some point, is it correct that
3 Goldin retained Legal Cost Control to perform an
4 analysis?

5 A. That's correct.

6 Q. Setting aside what Legal Cost Control
7 may have done, did Goldin Associates itself ever
8 perform a thorough and detailed examination of
9 any of the professional fee applications?

10 A. My understanding is that Goldin
11 Associates reviewed the work of Legal Cost
12 Control and consulted with counsel. I would
13 imagine reviewed such portions of the
14 applications as were appropriate and related to
15 those consultations.

16 Q. You imagine that. Do you know for a
17 fact that happened?

18 A. I do not.

19 Q. You personally didn't do that?

20 A. No.

21 Q. Is it correct that you personally did
22 not conduct any analysis of any of the
23 particular fee applications?

24 A. That's correct.

25 Q. Is it fair to say that Goldin

1 A. In several regards. When I say, "my
2 understanding," it has to be understood as I was
3 not responsible for the reviews of the
4 application within the firm. When I say I did
5 not, or what I think someone did, I am only
6 giving you my understanding. This was not an
7 area of responsibility of mine.

8 Q. Was it Mr. Slane's responsibility?

9 A. That's correct.

10 Q. Mr. Slane is sitting here now?

11 A. That's correct.

12 Q. With respect to the bills from the
13 Hennigan firm, did you actually look at any of
14 the billings or fee applications submitted by
15 the Hennigan firm?

16 A. I don't recall.

17 Q. You don't recall doing that?

18 A. I don't recall doing that.

19 Q. Do you have any reason to believe
20 that any of the work reflected on those bills
21 was not actually performed?

22 MR. DeFILIPPO: Objection. He just
23 said he didn't look at them.

24 Let me finish. How could he possibly
25 know?

1 (Pauker Exhibit 7, Copy of 1-27-01
2 letter to Goldin Associates from Gibbons,
3 Del Deo, marked for identification, as of
4 this date.)

5 Q. Is this a copy of the retention
6 letter?

7 A. I believe it is.

8 Q. Did you believe that the terms of
9 this retention were appropriate?

10 A. I don't recall reviewing it
11 specifically. I may have. I see Mr. Slane
12 signed it.

13 Q. As far as you're aware, these are the
14 terms that Goldin Associates agreed to for the
15 representation by the Gibbons, Del Deo firm?

16 A. Yes.

17 Q. Take a look at the third page of this
18 retention letter. The top portion.

19 A. The first paragraph?

20 Q. Yes, the first paragraph.
21 Specifically the sentences that says: "Our
22 rates are reviewed periodically to consider
23 adjustments based upon advancing experience,
24 capabilities and seniority of attorneys,
25 changing market conditions and general economic

1 factors. The hourly rates of the personnel may,
2 therefore, be increased at the time the firm
3 makes its review. We will provide you with
4 those rates when they become available." Do you
5 see that?

6 A. Yes.

7 Q. Was it your understanding that, from
8 time to time, the Gibbons, Del Deo firm might
9 raise the rates of the attorney during the
10 engagement?

11 A. It would be my understanding from
12 reading this. I don't specifically recall what
13 I would have thought at the time.

14 Q. That's your understanding from what
15 it says here today?

16 A. Yes. That what it says, the rates
17 may be increased. It means that the rates may
18 be increased.

19 Q. Can you take a look at the first full
20 paragraph. It says: "We will provide the
21 client with a detailed bill of the time value of
22 our services rendered on a monthly basis,
23 including our fees, charges and expenses
24 incurred by us, including, but not limited to
25 charges for serving and filing papers, courier

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1 or messenger services, recording and certifying
2 documents, long distance telephone calls,
3 copying materials, travel expenses and other
4 than ordinary mail postage." Do you see that?

5 A. Yes.

6 Q. From reading that, is it your
7 understanding that Goldin Associates agreed that
8 Gibbons, Del Deo would be reimbursed for its
9 expenses?

10 A. Yes. That's my understanding.

11 Q. Are the Gibbons, Del Deo fees being
12 paid by the Trust?

13 A. Yes, they are.

14 Excuse me, may I consult with my
15 attorney for a second?

16 Q. Yes.

17 (Attorney and client confer.)

18 A. I would like to supplement my last
19 answer.

20 Q. Okay.

21 A. The fees are being paid consistent
22 with the standing order in the plan that permits
23 us to pay a portion of the fees of professionals
24 on a monthly basis with a balance to be paid
25 upon application.

1 objections to the Hennigan application.

2 And were I, subsequent to this, to
3 become more familiar, involved in the process, I
4 may form an opinion on any issues on which I was
5 specifically asked to.

6 Q. And as of today, you haven't done
7 that; is that right?

8 A. As of today, I haven't undergone that
9 exercise.

10 Q. I believe you also told that as of
11 today you haven't read through the fee audit
12 report that was submitted to the court.

13 A. That's correct.

14 Q. Have you discussed the fee audit
15 report or any drafts of the fee audit report
16 with anyone at Legal Cost Control?

17 A. No.

18 Q. Do you know why it is you've been
19 identified in Interrogatory Answers as a witness
20 at the fee application hearing for the Hennigan
21 bills?

22 MR. DeFILIPPO: Does he know why he
23 has been identified as a witness?

24 MS. LINDGREN: Yes.

25 A. I believe that my testimony with

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, FRANCINE SKY, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify:

That DAVID PAUKER, the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such
deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 4th day of March, 2002.

A handwritten signature in cursive script that reads "Francine Sky". The signature is written in dark ink and is positioned above a horizontal line.

FRANCINE SKY